

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

THOMAS J. COZART

*

Plaintiff,

*

v.

* CIVIL ACTION NO. 3:06-CV-9-T

LEE COUNTY DETENTION CENTER,
et al.,

*

*

Defendants.

ORDER

Plaintiff, an inmate incarcerated at the Lee County Detention Center located in Opelika, Alabama, filed this 42 U.S.C. § 1983 on January 5, 2006. He complains about the conditions of confinement at the jail. Among the named defendants are the “Lee County Detention Facility Staff” and/or First and Second Shift at the Lee County Detention Center.

The Federal Rules of Civil Procedure do not provide for fictitious party practice, as it is incompatible with federal procedure. *See Rule 10(a) ("[i]n the complaint, the title of the action shall include the names of all the parties . . . "); New v. Sports and Recreation, Inc.*, 114 F.3d 1092, 1094 at n.1 (11th Cir. 1997) (fictitious party practice not permitted in federal court and plaintiff's failure to name parties required that court strike parties.); *Watson v. Unipress*, 733 F.2d 1386, 1388 (10th Cir. 1984) (plaintiff did not amend her complaint with identities of unknown defendants, and, therefore, no one directly involved in incident was named as defendant.). In light of the foregoing and, the court deems it appropriate to require

Plaintiff to file an amendment to his complaint before further proceedings are conducted.

Accordingly, it is ORDERED that:

1. Within fifteen (15) days of the filing date of this order Plaintiff shall file an amendment to his complaint which informs the court of the true names of the "Lee County Detention Center Staff" and/or the First and Second Shift at the Lee County Detention Center who allegedly violated his constitutional rights. Plaintiff is cautioned that if he fails to properly respond to this directive these individuals will not be considered parties to this cause of action and they will be dismissed from this case. *Hindes v. The Federal Deposit Insurance Corp.*, 137 F.3d 148, 155 (3rd Cir. 1998) (case law requires dismissal of fictitious parties when their proper identities are not submitted to the court.); and

2. Plaintiff's amended complaint should specifically describe how each of the aforementioned defendants violated his constitutional rights. In his response to this directive, Plaintiff must **separately** list each defendant and delineate by his/her name the actions and/or conduct which Plaintiff contends violated his constitutional rights. Additionally, Plaintiff shall set forth **short and plain statements** showing why he is entitled to relief. Each allegation in the amendment should be **simple, concise and direct**. See Rule 8, *Federal Rules of Civil Procedure*.

DONE, this 11th day of January, 2006.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE